



Commonwealth of Pennsylvania
Department of the Auditor General
Harrisburg, PA 17120-0018
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EUGENE A. DePASQUALE
AUDITOR GENERAL

September 3, 2019

Taylor Amarel
c/o MuckRock News
DEPT MR 79243
411A Highland Ave
Somerville MA 02144-2516

Reply via email to "79243-91646000@requests.muckrock.com"

Dear Mr. Amarel:

This letter acknowledges receipt by the Department of the Auditor General of your written request for documents and/or information under the Pennsylvania Right-to-Know Law, 65 P.S. § 67.101 *et seq.* Your request for "all emails sent to, from, or copied to Auditor General Eugene DePasquale from June 1, 2019 to Present Day containing any of the following non-case-sensitive key-strings: 'Department of Human Services', 'Berks County Residential Center', 'Detention', 'Health and Human Services', 'Homeland Security', 'USCIS', 'ICE', 'Leinbach', or 'Wolf'" was received via electronic mail on August 26, 2019.

Your request is hereby **GRANTED** as to any of the above materials that exist within the possession of the Department. To the extent that any of your request includes questions for which documents or records do not exist, your request is **DENIED**.

The records responsive to your request will require a total prepayment of **\$8.10** which includes \$6.50 for copy costs and \$1.60 for shipping to your address. We accept payment in the form of a check made payable to **The Pennsylvania Department of the Auditor General**. Payments must not be made to the undersigned. Failure to make payment will result in our inability to fulfill any future requests until this account has been cleared.

You have the right to appeal the denial of a Right-to-Know Law request. However, please note that, pursuant to the Office of Open Records Final Decision in *Jenkins vs. Pennsylvania Department of State*, OOR AP Dkt. No. 2009-065, "[i]t is not a denial of

access when an agency does not possess records and [there is no] legal obligation to obtain them (*see, e.g.* section 67.506 (d)(1)).”

The relevant provisions of our department’s Right-to-Know Policy are excerpted below:

Procedures to Appeal the Denial of Access to Records

- A. A person whose request for access to records has been denied in whole or in part may file an appeal of the denial. The appeal must be made in writing and must be filed within 15 business days of the mailing date of the denial or within 15 business days of a deemed denial. The appeal shall be directed to:

Open Records Appeal Officer
Department of the Auditor General
320 Finance Building
Harrisburg, Pennsylvania 17120-0018

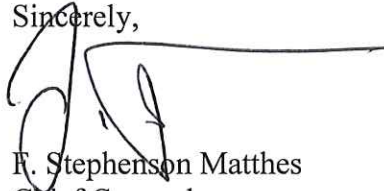
- B. The appeal shall include all factual and legal arguments that the requestor is relying upon in support of the requestor’s appeal and address any grounds asserted by the Open Records Officer in denying the request. Issues not raised by the requestor in the appeal shall be deemed waived. A copy of the original completed request form shall be submitted with the appeal.
- C. The Open Records Officer shall file a written reply to the requestor’s appeal within 15 business days of receipt of the appeal. The reply shall include all factual and legal arguments in support of the position of the Open Records Officer.
- D. The requestor may file a further response within 7 business days of the date of mailing of the Open Records Officer’s reply. No additional pleadings will be accepted.
- E. Except for good cause shown, no live testimony shall be received. In lieu of testimony, the parties may submit unsworn written statements to establish facts in support of their respective positions. A party who provides a false unsworn statement may be subject to penalties as provided by 18 Pa.C.S. § 4904 (pertaining to criminal penalties for providing unsworn false statements to authorities).
- F. The Appeals Officer may review records *in camera* in order to ascertain whether the denial of the record should be sustained or reversed.
- G. The Appeals Officer shall issue a written determination within 30 days of receipt of the appeal. This written determination shall be the final agency decision in the matter.

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- H. The Open Records Officer shall comply with the decision of the Appeals Officer or, within 30 days of the date of the final agency decision, file a Petition for Review of the decision to Commonwealth Court.
- I. To the extent that the decision sustains the denial of the records request, the requestor may, within 30 days of the mailing date of the final agency decision, file a Petition for Review to the Commonwealth Court.

Sincerely,

A handwritten signature in black ink, appearing to read 'F. Matthes', with a long horizontal line extending to the right.

F. Stephenson Matthes
Chief Counsel
OPEN RECORDS OFFICER

FSM/pjl